**PPET**

ATTORNEY CONTACT INFO

Attorney for XXX

In conjunction with Legal Aid Center of Southern Nevada Pro Bono Project

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION – JUVENILE

CLARK COUNTY, NEVADA

In the Matter of: ) Case No.:

) Dept. No.:

**CLIENT,** ) HEARING REQUESTED

DOB: Date of Birth )

)

A MINOR. )

)

**NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS PETITION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS PETITION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS PETITION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING.**

**MINOR CHILD’S PETITION TO RESTORE PARENTAL RIGHTS**

COMES NOW, CLIENT, by and through his attorney, Attorney, Esq., of Firm, and hereby submits this Petition to Restore Parental Rights. This Petition is based upon the following Memorandum of Points and Authorities, the papers and pleadings on file herein, the exhibit attached hereto, and such other documentary and oral evidence as may be presented at the hearing on this petition.

DATED this Day day of Month, Year.

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**MEMORANDUM OF POINTS AND AUTHORITIES**

1. **STATEMENT OF FACTS**

CLIENT was born on Date in Baton Rouge, Louisiana, and his birth certificate lists Mother and Father as the natural mother and father. CLIENT has four older siblings, one of whom was not a party to these proceedings.[[1]](#footnote-1)

The Department of Family Services (“DFS”) removed CLIENT and two of his siblings from the home of Mother and her boyfriend, Boyfriend, because of abuse, neglect, and domestic violence. On Date, police officers found the children in a drainage ditch. A body check revealed visible scars on all three children.[[2]](#footnote-2)

The Abuse and Neglect Petition filed on Date, alleged abuse and neglect only against Mother and Boyfriend. There were no allegations against natural father, Father, and case plan activities focused solely on Mother and Boyfriend. Subsequent court reports indicated that Father’s whereabouts were unknown.

Father’s whereabouts were unknown at the time because Mother absconded with the children, bringing them to Las Vegas without Father’s knowledge or consent. Once here, Mother provided him with contact information but would not allow him access to the children. She also refused to provide DFS with any contact information about Father. [[3]](#footnote-3)

Father first learned his children were in State custody in Month/Year in a telephone conversation with his oldest daughter, Sibling. She provided no information about the children or the case, only that they were in custody in Nevada.

On Date, the District Attorney filed a petition to terminate parental rights (“TPR”). This petition reflects that Father was listed on CLIENT’s birth certificate. However, the State did not know Father’s whereabouts or contact information, and thus did not serve him with the termination petition.

The TPR trial was held on Date. Prior to the trial date, Father was able to make contact with DFS, and advised the worker he was living in Louisiana and did not want his parental rights terminated. Mother was a no-show on Date, and the court terminated her parental rights. The court appointed counsel for Father and granted a continuance as to his parental rights.

Father was able to scrape together enough money to fly to Las Vegas for the continued TPR trial, only to learn after he got here, that a second continuance had been granted. Father did not have the money to return to Las Vegas for the third termination proceeding. The court denied his attorney’s request for a continuance and terminated his parental rights.[[4]](#footnote-4) After Father’s rights were terminated, he continued to express interest in having a relationship with CLIENT**.**

For CLIENT, life after TPR continues to be a living hell. Multiple adoptive homes have rejected him because of his behavior and mental disorders. He has had several altercations with authority figures and other foster children, was admitted to Montevista Hospital twice and has been diagnosed as autistic and possibly bipolar.

CLIENT and his siblings had been placed together in a foster home that had successfully worked with autistic children in the past. The foster parent adopted all of CLIENT’s siblings but rejected CLIENT because she did not want to deal with his behavioral issues. He has never recovered from this ultimate rejection and separation from his siblings.

CLIENT was then placed with foster parents who expressed great interest in adopting him but changed their minds several months later. CLIENT was then placed in a Unity group home that by all accounts failed miserably to meet his needs and provided sparse contact with his siblings.

CLIENT is currently placed at St. Jude’s Ranch for Children, where again, he is having only occasional contact with his siblings. CLIENT is struggling at St. Jude’s and this placement is at risk as well.

CLIENT has developed attachment issues and fears rejection. One recent psychological evaluation revealed CLIENT may suffer from post-traumatic stress disorder (PTSD), undoubtedly as a result of the constant rejection and instability since coming into the foster care system.

CLIENT’s dream is to reunify with his father. The two keep in contact by telephone and letters, which Father hand writes. CLIENT fondly remembers the five years the family lived with Father in Louisiana before Mother spirited the children off to Nevada and effectively cut off contact between him and his father.[[5]](#footnote-5)

Father reported sending money to Mother to help take care of the children and Father sent letters and cards expressing his love for CLIENT. He does not know how many of his letters actually reached the children.

Father wants to provide the stable and loving environment CLIENT so desperately needs. He has a solid career working as an assistant offshore engineer. Although he spends weeks at a time offshore, he has a network of family members to assist with caring for CLIENT. Father has maintained phone contact with CLIENT and CLIENT knows Father truly cares for him.

Currently, CLIENT has no viable adoption options. CLIENT likely will not be reunited with his siblings, and their adoptive parents, because they view CLIENT as a disruptive influence. Further, CLIENT wants to live with his father rather than staying in the group home or being placed with another adoptive family.

**II. LEGAL ARGUMENT**

**A.** **Minor Child, CLIENT, petitions this Court to set aside the Order terminating his natural father’s parental rights, thereby restoring those rights.**

A child who has not been adopted and whose natural parents have had their rights terminated or have relinquished their parental rights, may petition the court for the restoration of the parental rights so long as the natural parent, for whom the restoration is sought, consents in writing. NRS 128.170.

Additionally, NRS 128.190 states:

1. If a valid petition is filed pursuant to 128.170, the Court shall hold a hearing to determine whether to restore parental rights of the natural parent or parents.
2. Before granting a petition for the restoration of parental rights, the Court must find that:
   1. The child consents to the restoration of parental rights.
   2. The natural parent or parents for whom restoration of parental rights is sought have been informed of the legal obligations, rights and consequences of the restoration and are willing and able to accept such obligations, rights.
3. If the Court finds the necessary facts pursuant to subsection 2, the court shall order the restoration of parental rights if the court further finds by preponderance of the evidence that:
   1. The child is not likely to be adopted; and
   2. Restoration of parental rights is in the best interest of the child.

Here, NRS 128.170, 128.190(1)-(2) are satisfied because CLIENT petitions this Court to restore his father, Father’s, parental rights and Father has been informed of the legal obligations, rights and consequences of his restoration and accepts those obligations, rights and consequences. (*See Affidavit of*, *Father*, *Attached as Exhibit A*) The only remaining issue is NRS 128.190(3).

i. CLIENT likely will not be adopted.

CLIENT requires a high level of care and there is no indication anybody, other than Father, is prepared and willing to give CLIENT the care he requires. Two sets of foster parents considered adopting CLIENT and decided against adopting him after he lived in their respective homes. CLIENT will likely age out of the system if he is not reunited with his father because there is no current adoption plan in place and there is no evidence of anyone remotely interested in adopting CLIENT.

ii.Setting aside the previous order and restoring Father’s parental rights would be in CLIENT’s best interest because Father is willing and able to provide CLIENT with a safe, stable and loving home.

Father, after learning of CLIENT’s whereabouts, has maintained a consistent and positive parent-child relationship. Father routinely expressed his love for CLIENT in the letters he sent to him. Additionally, Father has participated, telephonically, in Child and Family Team (CFT) meetings. Father desires more contact with CLIENT however, Father cannot afford to constantly travel from Louisiana to Nevada, and therefore, the telephone is the most extensive contact Father and CLIENT can have. Father is fully aware of CLIENT’s behavioral issues and medical diagnosis and has never recanted his desire to take care of CLIENT, unlike CLIENT’s previous potential adoptive parents. Further, CLIENT has expressed his desire to stay with his father and there is no evidence Father cannot provide CLIENT with a safe and stable living environment.

**III. Conclusion**

Restoring Father’s parental rights and reuniting him with CLIENT is in CLIENT’s best interest because Father fully understands and is willing to provide the level of care CLIENT needs. When Father learned of CLIENT’s whereabouts, he immediately attempted to get in contact with his son. Father contacted DFS directly and expressed his desire to care for his son and maintain his parental rights. CLIENT is currently placed in a hostile environment because he often gets into altercations with the other boys at his group home. Additionally, CLIENT has likely suffered emotional damage stemming from experiencing constant rejection from people who claimed they wanted to care for and love him. Father can provide CLIENT with a safe and loving environment and give CLIENT the safety and permanency he, like every child, rightfully deserves. Refusing to restore Father’s parental rights would not be CLIENT’s best interest because it would deny CLIENT a stable home and the opportunity to connect with his natural father.

Accordingly, it would be appropriate and in CLIENT’s best interest for this Court to set aside the previous order to terminate Father’s parental rights.

Respectfully submitted this Day day of Month, Year.

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ATTORNEY CONTACT INFO

In conjunction with Legal Aid Center of Southern Nevada Pro Bono Project

***CERTIFICATE OF SERVICE***

I HEREBY CERTIFY that on the Day day of Month, Year, I served the foregoing **MINOR CHILD’S PETITION TO RESTORE PARENTAL RIGHTS** by the Court’s electronic system (EFS E-File & Serve) and/or depositing in the U.S. Mail in a sealed envelope with first-class postage fully prepaid thereon, to the following:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

An employee of

Firm

Exhibit “A”

**Affidavit of Father**

STATE OF NEVADA )

) ss

COUNTY OF CLARK )

I, Father, do hereby swear and affirm that I consent to have the Order terminating my parental rights for CLIENT set aside by the Nevada Court. I have also been informed of the legal obligations, rights and consequences of restoring my parental rights for CLIENT, as required under Nevada Revised Statute 128.190(2)(b) and I accept the obligations, rights, and consequences. I declare under penalties of perjury under Nevada state laws that the foregoing is true and correct.

**DATED** this Dayday of Month, Year.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Father

SIGNED and SWORN to before me

this Day of Month, Year.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NOTARY PUBLIC in and for

Said County and State

1. Sibling, Sibling, and Sibling were part of the underlying protective custody action, but due to being adopted, are no longer under juvenile court jurisdiction. The oldest sibling was not part of the household and was not named in these proceedings. [↑](#footnote-ref-1)
2. Sibling did not run away with the other three children, but the court subsequently ordered DFS to remove him and place him in protective custody as well. [↑](#footnote-ref-2)
3. Father sent money to Mother and letters to the children, but at some point, Mother moved and changed her telephone number, effectively cutting him off. [↑](#footnote-ref-3)
4. Father’s Special Public Defender drafted a Motion for Reconsideration, but did not file it at Father’s request. At the time of the termination proceedings, CLIENT and his siblings were in what was believed to be a stable adoptive home, and Father did not want to disrupt the placement. [↑](#footnote-ref-4)
5. Before leaving Louisiana, Mother apparently filed for divorce. Father hired an attorney to represent him in the divorce proceeding but did not have the funds to fight an interstate custody battle. It was never made clear whether the divorce was ever finalized, as documentation was destroyed during Hurricane Katrina. [↑](#footnote-ref-5)